GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Sri Uday Kumar Goud S/o. Prakash Chandra Goud, CS, Dy. Tahsildar, Kaviti(M), Srikakulam District, under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (A.P. Act No.16/1993) against the proceedings Rc.No.1148/2007 CI, dated: 23.05.2012 of the Collector & District Magistrate, Srikakulam, in cancellation of his ST-Goud caste certificate – Appeal Petition dismissed - Orders - Issued.

DEPARTMENT OF TRIBAL WELFARE (CV)

G.O.Ms.No.23, Dated.16.03.2024.
Read the following:-

1. Proceedings of the District Collector, Srikakulam District, Rc.No.1148/2007 CI, dated 23.05.2012.
2. Appeal Petition filed by Sri Uday Kumar Goud S/o.Prakash Chandra Goud, CS, Dy.Tahsildar, Kaviti(M), Srikakulam District before M(TW), No.16/M(TW)/2013, dt. 02.02.2013.
3. Govt. Memo No.1418/CV.2/2013, dated:23.02.2013.
4. Govt. Memo No.1424/CV.2/2013, dated:27.02.2013.
5. Letter from the District Collector, Srikakulam, No.Rc.1148/2007 C1, dt.14.03.2013.
6. Govt. Memo No.1418/CV.2/2013, dated:30.08.2013, 12.10.2023 & 06.12.2023.

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ORDER:

In the Proceedings 1st read above, the Collector & District Magistrate, Srikakulam had issued orders cancelling the ST-Goud community certificate of Sri Uday Kumar Goud S/o. Prakash Chandra Goud, obtained from the then Principal, G.J. College, Pathapatnam and countersigned by the then Tahsildar, Pathapatnam in 12/77.

2. In the reference 2nd read above, Sri Uday Kumar Goud S/o.Prakash Chandra Goud, has filed Appeal Petition before the Government against the Proceedings of the District Collector, Srikakulam. After examining the said Appeal Petition, Government have admitted the same and Para-wise remarks on the grounds filed by the Appellant along with connected records were called for from the District Collector, Srikakulam vide Govt. Memo 3rd read above.

3. In the letter 5th read above, the Collector & District Magistrate, Srikakulam has furnished the para-wise remarks on the Appeal Petition filed by Sri Uday Kumar Goud S/o.Prakash Chandra Goud.

4. The said Appeal Petition has been posted for hearing before the Hon'ble Appellate Authority on several dates and finally on 16.12.2023 duly informing the same to the Appellant and the Counsel for the Appellant vide reference 6th read above. During the course of the hearing and on perusal of the records/ the copies of evidences/ academic record/ grounds & written arguments filed by the Appellant/ Para-wise remarks submitted by the District Collector, Srikakulam and proceedings of the District Collector, Srikakulam, dated:23.05.2012, the Appellate authority has observed that;

I. The present Appeal is filed by Sri U.K. Goud - S/o Prakash Chandra Goud, Dy. Tahsildar, Kaviti (M), Srikakulam District aggrieved by the impugned proceedings in RC.No.1148/2007 CI, dated. 23-05-2012 of the District Collector, Srikakulam District issued under the Section 5(1) of AP (SC/ST/BC) Regulation of issue of Community Certificates Act 16/93, cancelling the Scheduled Tribe Certificate obtained by the appellant/ Sri Uday Kumar Goud S/o Prakash Chandra Goud, fraudulently as Goudu (ST) with immediate effect declaring the individual does not belong to Scheduled Tribe community.

II. The appellant filed written arguments and the concerned officer submitted para-wise remarks opposing the averments of the Appellant. The matter came up for hearing finally on 16.12.2023. Heard both sides. The following orders made after perusal of the material records available on the record.

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III. The appellant contends that Pathapatnam is their native place which is notified agency tract as per the Notification issued by the central Government and G.O.Ms.No.838, Dated 15.12.1977 of the State Government and that the Goudo caste covered by Agency Tract area has been considered as scheduled tribe and he belongs to Gouda and that as per G.O.Ms.No.880, Dated.17.10.1975 all Gazetted Officers of Government etc. are competent to issue community certificates for SCs and STs and that as such the ST certificate issued by the Principal Government Junior College, Pathapatnam schedule Tribe, which was counter signed by the Tahsildar, Pathapatnam and that record of Register Reg.No.3331/77 Tahsildar, Pathapatnam is valid certificate and that the District Collector failed to examine the GOs and notifications issued and came to a wrong conclusion on the basis of the reports of Sub-Collector, Tekkali, Tahsildar, Pathapatnam, D.T.W.O. Srikakulam, Deputy Director, Social welfare, Srikakulam and District BC Welfare Officer. Srikakulam and the findings of District Level Scrutiny Committee(DLSC) as "GOWDA"-BC and that no opportunity was given to him and that as per the Rule 21 of AP SC, ST and BC issue of Community, Nativity and Date of Birth Certificate Rules 1997 issued Vide G.O.Ms.No.58, Social Welfare(j) Dept., dt.12.05.1997 the certificate issued is valid and requested to set-side the proceedings of the 1148/2007 dated 23.05.2012 issued by the District collector and District Magistrate Srikakulam.

IV. The District Collector has furnished para-wise remarks, submitting that the Petitioner was selected for APPSC Group IV Services, and on a representation of President SC ST Employees Association a notice was issued to the Appellant here in and that the appellant produced a copy of ST Caste Certificate issued by the Principal, G.J.College, Pathapatnam, who is not competent authority to issue caste certificate and many opportunities were given but the Appellant failed to produce recorded documentary evidence in support of his claim except the certificate issued by Gazetted Officer, i.e., the Principal, G.J. College, Pathapatnam as per Gazette Notification Dated 17.10.1975, but no proof of orders produced thereof and that the appellant himself admitted during enquiry that it was recorded in School records as Goud BC-B for all the 12 individuals who were examined and that further contention of the District collector is that the appellant Sri Uday Kumar Goud and Sri Tarinichandra Jadavo belong to the same family and they are brothers and children of Sri Prakash Chandra Goud only and that his ST certificate also was cancelled which is a connected file bearing C.No.1424/CV.2/2013 and that the District Collector, Srikakulam requested the Govt. to dismiss the Appeal petition.

V. As per the records, Sri R. Ramesh Kumar, president, Srikakulam District SC/ST Revenue Employees Association and others represented on 24.12.06 to the collector alleging that the Appellant here in secured an employment in Revenue Department by producing false ST certificate and is working as Dy. MRO in the Revenue Department and requested for cancellation of the ST Certificate of the employee. The District collector referred the case under rule 9(1) of AP SC/ST/BCs issue of community, Nativity and Date of Birth Rules. 1997. to the Joint collector & chairman, District Level scrutiny Committee(DLSC) to furnish its findings.

VI. The appellant attended on 07.02.2009 before the chairman, DLSC and stated that he is native of Pathapatnam, that he resided there, and his grandfather worked as Attender under Dy. Inspector, Chodavaram of Visakhapatnam District and that his father was appointed as Attender on compassionate grounds, and that he studied elementary education at Pathapatnam, and that the occupation of their caste is buffalos rearing, that they used to worship the goddesses Tekulamma, Yellamma and Mangalamm and narrated his customs and traditions and further stated that they married the brides of their caste Gouda, that there is custom of remarriage of widow or widower in their caste and remarriage in case of barren wife, that at the time of marriage there is no custom of wearing of Mangalasutra on the neck of bride, that then the Tahsildar issued a caste certificate to them in 1977, and he was recruited in 1984 through AP Public Service Commission in Revenue Department.

VII. The Appellant produced the Xerox copy of caste certificate dt.09.12.77 issued by the Principal, Government Junior College, Pathapatnam, countersigned by the Tahsildar, Pathapatnam on 09.12.77 as Goud-ST; SSC Pass Certificate; Copy of Caste Certificate dt.09.12.99 issued by Tahsildar, Pathapatnam and attested by MRO, Santhabommali on 13.06.93 as ST Xerox copy of S.R. of Prakash Chandra Goud; TC dt.19.08.79 issued by the Principal, G.J. College, Pathapatnam; Xerox Copy of identity Card issued by District Employment Officer to appellant Proceedings Rc.2583194 A3, dt.25.08.1984 of Collector, Srikakulam, appointing Uday Kumar Goud; Xerox copy of Service Register,

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Resident Certificate dt:03.02.2009 issued by Sarpanch, Pathapatnam, Caste Certificate dated.19.11.2004 of MRO, Gummalakshmipuram of Vizianagaram District issued to Goudu Ravindra of Cheemadaguda as ST Agency Gouda-ST. However the Appellant failed to produce the original ST caste certificate.

VIII. It is clear from the records that the Appellant secured ST certificate as Goud from the Principal G.J. College Pathapatnam which was countersigned by the Tahsildar, Pathapatnam in 1977, the matter was referred to the members of District Level Scrutiny Committee who in turn submitted their reports.

IX. The District Tribal Welfare Officer, Seethampeta in Rc.No.1108 H/TW dated. 06.02.09 reported that during the enquiry the Sarpanch, Pathapatnam had stated that the "Goud" caste people belong to BC but not ST that for the last 30 years the family of the appellant did not reside in Pathapatnam.

X. The Dy. Director Social Welfare, Srikakulam in Rc. 119/08 A, dated. 30.04.09 reported that the grandfather of the appellant came to Pathapatnam in 1938 on transfer and resided in Pathapatnam. The Dy.Director further reported that the Goud caste people in the village belong to BC Community but not ST and the appellant does not belong to ST Goudu but he belongs to BC Community. The Dy. Director, Tribal Welfare. Seethampeta in 1/08 HC.TW dated.05.06.09 reported that the native place of the appellant is not Pathapatnam and in his TC, the caste was mentioned as "Goud" only but not as ST and that the caste in the Service Register of Prakash Chandra Goud father of the appellant was noted as Goud but not ST Goudu, that their customs are not matching with the customs of STs.

XI. The report of the Tahsildar, Meliaputti Tahsildar Meliaputti in his report Rc.No.264/2011 A, dt.21.04.2012 reported that during the enquiry, the blood and nearest relatives of the Appellant deposed that they all belong to Gouda caste/ Backward Class-B Category and accordingly certificates have been issued to them. The Tahsildar Tekkali in his report Rc.No.490/2010 C, dt.18.04.2012 reported that Sri Jagannadh Prasad Gouda, Sri Ganapathi Gouda who are the brothers of the appellant deposed that the caste of their children was recorded as Gouda BC-B caste in school records etc.

XII. The Tahsildar, Pathapatnam in RC.No.129/08 C, dated. 05-08-2008 reported that Sri Uday Kumar Goud (Appellant herein) does not belong to Pathapatnam Mandal and that there are only 2 Goud families residing in Pathapatnam and they are treated as BCs but not STs.

XIII. The District Level Scrutiny Committee after an enquiry, it recommended for the cancellation of the certificate issued to the Appellant as ST and forwarded the same to the Collector.

XIV. The copy of the findings of the DLSC was served on the appellant and directed to attend before the collector and District Magistrate, Srikakulam on 30.04.2012 for his submissions on the report. The individual attended and failed to produce documentary evidences in support of his claim. The District Collector finally passed an impugned order holding that the appellant belongs to BC Community but not ST and he had obtained "Goud" (ST) community certificate from the Principal, G.J. College. Pathapatnam fraudulently by misrepresenting the facts and as such it deserves cancellation.

XV. The questions that fall for consideration in this Appeal is as to whether the Appellant has substantial evidence to make his claim as ST- Goudu/Goud? And whether an opportunity was given to the Appellant to prove his claim during the enquiry?

XVI. It is necessary to refer in this connection to the Scheduled castes and Scheduled Tribes Order (Amendment) Act 1956 which specified that 'Goudu'(Goud) are the notified STs in the Agency Tracts. However subsequently, The Scheduled castes and Scheduled Tribes Order (Amendment) Act 108 of 1976 in the Second Schedule, Part I, Entry (7) was enacted declaring "Goudu (in Agency tracts)" only as Scheduled Tribe.

XVII. The contention of the Appellant is that as per the notification issued Vide G.O.Ms.No.838, dated. 15-12-1977, the "Goud" is a notified ST. It is true the Scheduled Castes and Scheduled Tribes order (Amendment) Act 108 of 1976 specifies (Entry No 18), "Goud" is a notified ST. However the subsequent the Scheduled castes and

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Scheduled Tribes order (Amendment) Act 2002(Act 10 of 2003) dated.07-01-2003, specified that in entry '18' for "Goud", substituted by "DoliKoya, Gutta Koya, Kammara Koya, Musara Koya, Oddi Koya and Pattidi Koya. Therefore the caste "Goud" is not a notified Scheduled Tribe in Andhra Pradesh.

XVIII. The copy of the caste certificate(Xerox-1977) produced by the appellant issued by the Principal Government Junior college, Pathapatnam, shows that he belongs to Goud, as per the ST modification order 1956. In fact the said constitutional order only referred 'Goudu(Goud) as Scheduled Tribes only in the Agency Tracts. Admittedly the appellant and his family members are residents of Pathapatnam. Infact Pathapatnam is not a notified scheduled area in Srikakulam District. The Certificate itself is not a proof to declare the status of individual as ST in the case, there is no notification issued under Fifth schedule to the constitution produced by the Appellant to prove that the Pathapatnam is a notified agency area.

XIX. All other records produced by the Appellant show only his caste as Goud" without mentioning the ST. Therefore as per the Act 10 of 2003, "Goud" is not a notified ST in Andhra Pradesh. The local enquiries conducted by several officers of revenue, and tribal welfare officials clearly reveal that the appellant belongs to Goud-BC category. The local enquiries also prove that the appellant belongs to Goud- B.C, not a notified ST. "Goudu" is only a notified ST in the agency tracts, for the purpose of the above Act.

XX. In the present case the applicant is not an ordinary resident of the Agency Tracts and his own blood relatives have admitted that they all belong to Gouda caste BC community and admittedly the school records of the children of his brothers also prove to this effect. The burden on the appellant to prove that he belongs to a notified ST in the Scheduled Area by producing the original ST certificate issued by a competent authority. The records reveal that an ample opportunity was given at ever stage of enquiry to prove his claim as ST.

XXI. When the burden of proof is on the appellant under section 6 of the Act, he has to establish that he belongs to the community to which he claims to belong, it is for him to produce valid evidence in support for the claim made by him.

XXII. The Hon'ble Supreme Court, in Anand Vs. Committee for Scrutiny and Verification of Tribe Claims, on 8 November, 2011, observed that "Needless to add that the burden of proving the caste claim is upon the applicant. He has to produce all the requisite documents in support of his claim. The Caste Scrutiny Committee merely performs the role of verification of the claim and therefore, can only scrutinize the documents and material produced by the applicant. In case, the material produced by the applicant does not prove his claim, the Committee cannot gather evidence on its own to prove or disprove his claim".

XXIII. The District Collector is empowered under Section 5(1), either on suo-motu or on a written complaint in person, can call for the record of any person who obtained false Community Certificate either before or after the commencement of the Act and enquire into the correctness of such certificate. If the District Collector is of the opinion that the certificate was obtained fraudulently, he shall by notification cancel the certificate after giving the person concerned an opportunity of making a representation. Therefore, the impugned order passed by the District Collector is in accordance with the provisions of the law.

XXIV. It is a matter of grave concern that persons who belongs to non STs have been indulging in gross misuse the community certificates obtained by playing fraud depriving the constitutional benefits envisaged for the genuine Scheduled Tribes.

XXV. The community certificate obtained by the real brother of the Appellant namely Sri Tarinichandraladavo S/o Prakash Chandra Goud as ST-Goud was cancelled by the proceedings of the District Collector in RC.No.1148/2007 C1, dated. 23-05-2012 which were further upheld by the Government Vide Ref. No.G.O.Ms.No.41, Tribal Welfare(CV) Department, dated.11-07-2023.

XXVI. In view of the discussions made above, there is no irregularity or illegality in cancelling the community certificate issued to the Appellant herein as ST Goud by the Principal, Government Junior College, Pathapatnam. Therefore the impugned order passed by the District Collector, Srikakulam District, Srikakulam in Vide RC.No.1148/2007 CI, dated. 23-5-2012 is hereby upheld and does not warrant any interference from this Appellate Authority. In the result, Appeal Petition is dismissed. As a sequel interim orders if any passed in the matter shall stand vacated. Appeal is disposed of accordingly.

[Contd..on P.5]

5. Government after careful examination of the appeal petition and the circumstances stated supra and in exercise of the powers conferred under Section 7(2) of A.P. Scheduled Castes, Scheduled Tribes and Backward Classes Regulation of Issue of Community Certificates Act, 1993 (Act 16 of 1993), and rules made there under, decide that the appeal petition filed by Sri Uday Kumar Goud S/o. Prakash Chandra Goud does not deserve any interference. Hence, the proceedings in Rc.No.1148/2007 CI, dated 23.05.2012 of the Collector & District Magistrate. Srikakulam are hereby upheld and the appeal petition filed by Sri Uday Kumar Goud S/o.Prakash Chandra Goud is hereby dismissed.

6. The Collector & District Magistrate, Srikakulam is directed to take necessary consequential action in the matter, as per the A.P. (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act 16 of 1993), and rules made therein.

7. The records (Rc.C6/576/M/2016, containing pages NF 1-83 and CF 467-1173) received from the Collector & District Magistrate, Srikakulam are returned herewith in original to the Collector & District Magistrate, Srikakulam and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Collector & District Magistrate, Srikakulam.
(With Original Records) **(BY RPAD)**

Sri Uday Kumar Goud S/o. Prakash Chandra Goud,
Dy.Tahsildar(Retd.), Kaviti (M), Srikakulam District.
and
Sri Uday Kumar Goud S/o. Prakash Chandra Goud,
Dy. Tahsildar(Retd.), Kotabommali,
Near Vamsadhara School, Srikakulam Dist-532195.

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Ph.9848747808.

Copy to:

The Revenue Divisional Officer, Srikakulam.

The OSD to Hon'ble Deputy C.M.(TW).
The PS to Principal Secretary(TW).

// FORWARDED:: BY ORDER //

M. Srinivasa Rao
SECTION OFFICER